

# EXECUTIVE COUNCIL OF IOWA AGENDA

State Capitol - Robert D. Ray Conference Room (G09) 10:00 a.m.

**September 4, 2018**

1. Approval of minutes of meeting held August 20, 2018.
2. Personal Appearance –
  - A. Christie Templeton, Department of Human Services will be present to request additional Resolution of Funds in the amount of \$750,000.00 pursuant to Iowa Code §29C.20A with regard to Governor's Proclamation of a State of Disaster Emergency for Boone, Dallas, Jasper and Polk Counties.  
**TAB # 1**
  - B. Christie Templeton, Department of Human Services will be present to request additional Resolution of Funds in the amount of \$75,000.00 pursuant to Iowa Code §29C.20A with regard to Governor's Proclamation of a State of Disaster Emergency for Clay, Dickinson, Emmet, Kossuth, Lyon, Osceola, Palo Alto, Scott and Story Counties.  
**TAB # 2**
3. Outside Counsel – Page 1  
**TAB # 3, 4**
4. Special Counsel – Page 1  
**TAB # 5**
5. Emergency Allocations – Pages 1-3
6. Payment of Cost Items – Pages 3-5

**3. Outside Counsel**

- A. The Department of Justice, Attorney General's office requests retention of outside counsel pursuant to Iowa Code section 13.3(1) in *Mary Kimball v. Woodward Resource Center, State of Iowa and Second Injury Fund of Iowa*, a workers' compensation case filed by a state employee.

Firm: Patterson Law Firm, L.L.P.  
Attorney: Ryan Clark  
505 5<sup>th</sup> Avenue  
Suite 729  
Des Moines, IA 50309  
Rate: \$120.00 Per Hour  
**TAB # 3**

- B. The Department of Justice, Attorney General's office requests retention of outside counsel pursuant to Iowa Code section 13.3(1) in *Mark Alan Plueger v. Iowa Department of Transportation, State of Iowa and Second Injury Fund of Iowa*, a workers' compensation case filed by a state employee.

Firm: Patterson Law Firm, L.L.P.  
Attorney: Ryan Clark  
505 5<sup>th</sup> Avenue  
Suite 729  
Des Moines, IA 50309  
Rate: \$120.00 Per Hour  
**TAB # 4**

**4. Special Counsel**

- A. Request from the Attorney General's Office for authorization to employ an outside attorney on a temporary basis to assist the Office in handling a backlog of criminal appeal cases.

**TAB # 5**

**5. Emergency Allocations**

- A. Department of Public Safety is requesting an emergency allocation and reimbursement in the amount of \$13,543.00. On November 19, 2017 State Patrol Vehicle #478 was damaged by a deer in Page County. Request is to cover repair costs.

The State Auditor's Office has reviewed this request and recommends allocation and payment. This represents full and final payment and this allocation will be closed.

- B. Department of Public Safety is requesting an emergency allocation in the amount of \$5,571.68. On June 11, 2018 State Patrol Vehicle #443 was damaged by a deer on Highway 2. Request is to cover repair costs.

The State Auditor's Office has reviewed request and recommends allocation, subject to audit of actual invoices.

- C. Department of Public Safety is requesting an emergency allocation in the amount of \$3,409.08. On June 30, 2018 State Patrol Vehicle #125 was damaged by a deer on Highway 18. Request is to cover repair costs.

The State Auditor's Office has reviewed request and recommends allocation, subject to audit of actual invoices.

- D. Department of Public Safety is requesting an emergency allocation in the amount of \$2,464.45. On July 10, 2018 State Patrol Vehicle #435 was damaged by a deer on Highway 275. Request is to cover repair costs.

The State Auditor's Office has reviewed request and recommends allocation, subject to audit of actual invoices.

- E. Department of Public Safety is requesting an emergency allocation in the amount of \$2,202.20. On August 1, 2018 State Patrol Vehicle #32 was damaged by a deer on County Road F24. Request is to cover repair costs.

The State Auditor's Office has reviewed request and recommends allocation, subject to audit of actual invoices.

- F. Department of Public Safety is requesting an emergency allocation in the amount of \$10,737.16. On June 30, 2018 State Patrol Vehicle #284 was damaged due to flooding in Ankeny. Request is to cover repair costs.

The State Auditor's Office has reviewed request and recommends allocation, subject to audit of actual invoices.

- G. Iowa Communications Network is requesting an emergency allocation in the amount of \$33,217.32. On June 27, 2018 ICN sustained cable damage due to erosion along 390<sup>th</sup> Street near Emmetsburg. Request is to cover repair costs.

The State Auditor's Office has reviewed this request and recommends allocation, subject to audit of actual invoices and supporting documentation and demonstration that no costs covered by the maintenance contract have been included.

- H. Iowa Communications Network is requesting an emergency allocation in the amount of \$11,985.10. On June 27, 2018 ICN sustained cable damage due to erosion along Highway 9 near Lake Park. Request is to cover repair costs.

The State Auditor's Office has reviewed this request and recommends allocation, subject to audit of actual invoices and supporting documentation and demonstration that no costs covered by the maintenance contract have been included.

**6. Payment of Cost Items**

- A. Department of Public Safety .....\$5,215.50  
On January 18, 2018 State Patrol Vehicle #59 was damaged by a deer in Montgomery County. Request was to cover repair costs.

The State Auditor's Office has reviewed this request and recommends payment. This represents full and final payment and this allocation closed

- B. Department of Public Safety .....\$2,043.77  
On February 7, 2018 State Patrol Vehicle #260 was damaged by a deer on Highway 63. Request was to cover repair costs.

The State Auditor's Office has reviewed this request and recommends payment. This represents full and final payment and this allocation closed

- C. Department of Public Safety .....\$4,563.00  
On March 31, 2018 State Patrol Vehicle #369 was damaged by a deer on Highway 9. Request was to cover repair costs.

The State Auditor's Office has reviewed this request and recommends payment. This represents full and final payment, \$249.10 will be reverted and this allocation closed.

- D. Department of Public Safety .....\$4,081.12  
On April 9, 2018 State Patrol Vehicle #383 was damaged by a deer on Highway 146. Request was to cover repair costs.

The State Auditor's Office has reviewed this request and recommends payment. This represents full and final payment and this allocation closed

- E. Department of Public Safety .....\$5,145.89  
On June 4, 2018 Vehicle #231 sustained damage after hitting a deer on Highway 34. Request was to cover repair costs.

The State Auditor's Office has reviewed this request and recommends payment. This represents full and final payment and this allocation closed

- F. Department of Public Safety .....\$4,011.27  
On May 14, 2018 Vehicle #198 sustained hail damage in Mount Vernon.  
Request was to cover repair costs.

The State Auditor's Office has reviewed this request and recommends payment. This represents full and final payment and this allocation closed

- G. Department of Public Safety .....\$3,455.51  
On June 8, 2018 State Patrol Vehicle #807 was damaged by a hail in Spencer.  
Request was to cover repair costs.

The State Auditor's Office has reviewed this request and recommends payment. This represents full and final payment and this allocation closed

- H. Patterson Law Firm L.L.P.....\$60.00  
729 Insurance Exchange Building  
505 Fifth Avenue  
Des Moines, IA 50309-2390  
Wenxin Liu vs. Iowa Department of Natural Resources, State of Iowa and  
Second Injury Fund of Iowa

Jeffrey S. Thompson, Solicitor General, has reviewed this invoice and recommends payment. Payment will be made from the Second Injury Fund.

- I. Simmons Perrine Moyer Bergman PLC.....\$300.00  
115 Third Street SE, Suite 1200  
Cedar Rapids, IA 52402  
Tobacco Settlement Authority

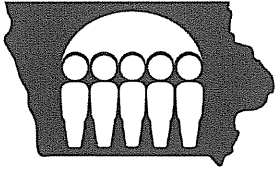
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- J. Simmons Perrine Moyer Bergman PLC.....\$300.00  
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Cedar Rapids, IA 52402  
Tobacco Settlement Authority

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K. Barnes & Thornburg LLP.....\$7,606.79  
One North Wacker Drive, Suite 4400  
Chicago, IL 60606  
Peregrine Financial Group (PFG) Bankruptcy

Jeffrey S. Thompson, Solicitor General has reviewed this invoice and recommends payment. Payment will be made from the University of Northern Iowa.



# Iowa Department of Human Services

Kim Reynolds  
Governor

Adam Gregg  
Lt. Governor

Jerry R. Foxhoven  
Director

## EXECUTIVE COUNCIL

August 28, 2018

AUG 29 2018

Victoria Newton, Executive Secretary  
Executive Council of Iowa  
State Capitol Building  
LOCAL

Re: Governor's Proclamation of a State of Disaster Emergency – Request for Funds

Dear Ms. Newton:

On June 30, 2018, a severe storm system caused flooding in Boone, Dallas, Jasper and Polk Counties causing damage.

Per the Governor's Disaster Proclamation, I am requesting additional funding for the Iowa Individual Assistance Grant Program (IIAGP) be placed on the Executive Council Agenda for Tuesday, September 4, 2018. The Iowa Department of Human Services is requesting the Executive Council adopt a Resolution for Funds in the amount of \$750,000.00 to be allocated as follows.

- \$750,000.00 for IIAGP for Boone, Dallas, Jasper, and Polk Counties

Pursuant to Iowa Code 29C.20A these funds will be distributed to individuals or families to replace/repair items affected by the disaster emergency which cannot be met by other means of financial assistance.

The account coding for the funds to be transferred will be:

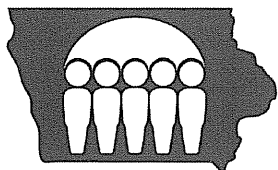
Dept	Fund	Appr	Org
401	0391	0000	1901_State Only Disaster IIAGP (7/2/18)

Thank you for your assistance.

Sincerely,

Jerry R. Foxhoven  
Director

cc: Vern Armstrong, Department of Human Services  
Christie Templeton, Department of Human Services  
Harry Rossander, Department of Human Services  
Barb DeJoode, Department of Human Services  
Robert Beran, Department of Human Services  
Trudy Crawford, Department of Human Services  
Linda Leto, Department of Management



# Iowa Department of Human Services

Kim Reynolds  
Governor

Adam Gregg  
Lt. Governor

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August 28, 2018

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The account coding for the funds to be transferred will be:

<u>Dept</u>	<u>Fund</u>	<u>Appr</u>	<u>Org</u>
401	0391	0000	1805_State Only Disaster IIAGP (6/21/18)

Thank you for your assistance.

Sincerely,

*M. Foxhoven*  
*Signature of Jerry R. Foxhoven*  
 Jerry R. Foxhoven  
 Director

cc: Vern Armstrong, Department of Human Services  
 Christie Templeton, Department of Human Services  
 Harry Rossander, Department of Human Services  
 Barb DeJoode, Department of Human Services  
 Robert Beran, Department of Human Services  
 Trudy Crawford, Department of Human Services  
 Linda Leto, Department of Management



THOMAS J. MILLER  
ATTORNEY GENERAL

JEFFREY S. THOMPSON  
SOLICITOR GENERAL



IOWA DEPARTMENT OF JUSTICE  
OFFICE OF THE ATTORNEY GENERAL

1305 E. WALNUT ST.  
DES MOINES, IA 50319  
Main: 515-281-5164 • Direct: 515-281-4419  
Email: Jeffrey.Thompson@iowa.gov  
www.iowaattorneygeneral.gov

August 28, 2018

EXECUTIVE COUNCIL

AUG 30 2018

Victoria Newton  
Executive Secretary  
Executive Council  
State Capitol  
L-O-C-A-L

Re: Retention of Outside Counsel

Dear Victoria:

Our office requests appointment of outside counsel pursuant to Iowa Code section 13.3(1) in *Mary Kimball v. Woodward Resource Center, State of Iowa and Second Injury Fund of Iowa*, a workers' compensation case filed by a state employee. Because the resolution of this claim may turn on whether the State of Iowa or the Second Injury Fund must pay workers' compensation benefits, our office cannot represent both defendants.

In order to avoid a conflict of interest, the Special Litigation Division has contacted Ryan Clark of the Patterson Law Firm, L.L.P., 505 5<sup>th</sup> Avenue, Suite 729, Des Moines, Iowa 50309-2390, to represent the Second Injury Fund. Mr. Clark has agreed to represent the Second Injury Fund at the rate of \$120.00 per hour. Our office will represent the State of Iowa.

Accordingly, we request Executive Council approval to retain Mr. Clark to represent the Second Injury Fund in this case.

Sincerely,

JEFFREY S. THOMPSON  
Solicitor General

THOMAS J. MILLER  
ATTORNEY GENERAL

JEFFREY S. THOMPSON  
SOLICITOR GENERAL



IOWA DEPARTMENT OF JUSTICE  
OFFICE OF THE ATTORNEY GENERAL

1305 E. WALNUT ST.  
DES MOINES, IA 50319  
Main: 515-281-5164 • Direct: 515-281-4419  
Email: Jeffrey.Thompson@iowa.gov  
www.iowaattorneygeneral.gov

August 29, 2018

**EXECUTIVE COUNCIL**

Victoria Newton  
Executive Secretary  
Executive Council  
State Capitol  
L-O-C-A-L

**AUG 30 2018**

Re: Retention of Outside Counsel

Dear Victoria:

Our office requests appointment of outside counsel pursuant to Iowa Code section 13.3(1) in *Mark Alan Plueger v. Iowa Department of Transportation, State of Iowa and Second Injury Fund of Iowa*, a workers' compensation case filed by a state employee. Because the resolution of this claim may turn on whether the State of Iowa or the Second Injury Fund must pay workers' compensation benefits, our office cannot represent both defendants.

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Accordingly, we request Executive Council approval to retain Mr. Clark to represent the Second Injury Fund in this case.

Sincerely,

JEFFREY S. THOMPSON  
Solicitor General

THOMAS J. MILLER  
ATTORNEY GENERAL

ERIC TABOR  
CHIEF DEPUTY ATTORNEY GENERAL



IOWA DEPARTMENT OF JUSTICE  
OFFICE OF THE ATTORNEY GENERAL

1305 E. WALNUT ST.  
DES MOINES, IA 50319  
Main: 515-281-5164 • Direct: 515-281-5191  
Email: Eric.Tabor@ag.iowa.gov  
www.iowaattorneygeneral.gov

August 21, 2018

EXECUTIVE COUNCIL

AUG 27 2018

Victoria Newton  
Administrative Secretary  
Executive Council  
State Capitol  
L-O-C-A-L

Re: Retention of Special Counsel – Criminal Appeals

Dear Ms. Newton:

Pursuant to Iowa Code section 13.7(1), the Attorney General requests the Executive Council to authorize the employment of Special Counsel to represent the State of Iowa in criminal appeals cases. The Attorney General's Office ("Office") lacks the resources to handle a large backlog of criminal appeals cases.

Under Iowa Code section 13.2(1)(a), it is the duty of the Office to defend all criminal convictions obtained by county attorneys in the Iowa Court of Appeals and the Iowa Supreme Court. For many years, the number of criminal appeals averaged about 375-400 per year. This caseload has increased dramatically in recent years in large part to a rule change of the Iowa Supreme Court requiring the briefing of scores of appeals that were previously considered "frivolous." Currently, in the range of 700 appeals per year are being received by the Office.

At the Office's request, the Legislature provided funding for two additional criminal appeal attorneys in FY14. When the Office requested additional staff for FY15, the Legislature did not approve the funding. By reallocating resources for FY16, the Office was able to hire an additional attorney. Nevertheless, with current staffing it is increasingly challenging to handle the caseload in time frames required by the Iowa Supreme Court. Criminal appeals attorneys, on average, write four briefs a month. This level of output is far beyond ABA standards which state that state appellate lawyers should produce about two briefs per month. (The Iowa Supreme Court has cited the ABA standard with approval in *Simmons v. State Public Defender*, 791 N.W. 2d 69 (2010).)

The Office faces a backlog of about 120 criminal appeal cases. In lieu of hiring attorneys on a permanent state employee basis, the Office desires to hire an attorney on a contract basis to help reduce this backlog of cases. Specifically, the Office would like to retain Rick Bennett,

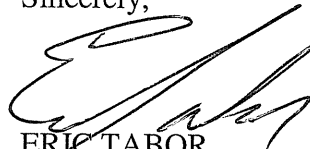
Victoria Newton  
Page 2

5610 Waterbury Circle, Des Moines, IA 50312. Mr. Bennett was an assistant attorney general doing criminal appeals work from 1986-2013 and is well qualified for this work.

The hourly rate would be \$60 per hour, which is commensurate with the salary paid to experienced criminal appeals attorneys in the Office. The contract would extend through the end of FY19, with an option of renewal. Amounts paid under the contract would be paid from the Office's Forfeiture Fund.

We appreciate your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Tabor", written over the printed name.

ERIC TABOR  
Chief Deputy